

Exhibit 4

Confidential – Subject to The Protective Order
John Van Merkensteijn – April 20, 2021

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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK
3 CASE NO. 18-MD-2865 (LAK)

4 IN RE:)
5)
6)

5 CUSTOMS AND TAX ADMINISTRATION OF)
6 THE KINGDOM OF DENMARK)
7 (SKATTEFORVALTNINGEN) TAX REFUND)
8 SCHEME LITIGATION)
9)

This document relates to case nos.)
19-cv-01783; 19-cv-01788; 19-cv-01794;)
19-cv-01798; 19-cv-01918)

10
11
12 C O N F I D E N T I A L

13 SUBJECT TO THE PROTECTIVE ORDER

14
15 CONTINUED REMOTE VTC VIDEOTAPED DEPOSITION UNDER

16 ORAL EXAMINATION OF

17 JOHN VAN MERKENSTEIJN

18 VOLUME II

19 DATE: April 20, 2021
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23
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25 REPORTED BY: MICHAEL FRIEDMAN, CCR

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1 J O H N V A N M E R K E N S T E I J N,
2 called as a witness, having been first
3 duly sworn according to law, testifies as follows:
4

5 MS. MCCARTHY: Marc, before we
6 start, can I just add something to the
7 record. I failed yesterday to designate
8 the transcript from yesterday as
9 Confidential pursuant to the protective
10 order, and ask that it be so designated
11 now.

12 MR. WEINSTEIN: Okay.

13 MS. MCCARTHY: Thank you.
14

15 CONTINUED EXAMINATION BY MR. WEINSTEIN:

16 Q Good morning, Mr. Van Merkensteijn?

17 A Good morning.

18 Q Can we start by having you look at
19 Exhibit 2307?

20 MR. WEINSTEIN: Mark this as 2307.

21 (Whereupon the above mentioned was
22 marked for Identification.)

23 A Okay.

24 Q Exhibit 2307 is an invoice from
25 Ganymede Cayman, Limited to you and it names

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1 them.

2 Q Did they actually provide you with
3 legal advice regarding the issues on whether
4 they were qualified under the Internal
5 Revenue code?

6 A I don't recall specific advice. We
7 asked them to organize the plans, they
8 organized the plans.

9 If they weren't qualified, then I
10 would have heard about it somehow.

11 Q Did Kaye Scholer provide you legal
12 advice regarding the requirements under the
13 Danish U.S. double taxation treaty?

14 A Well, the underlying principal of
15 the transaction was to have pension plans
16 that qualified under the treaty, and they
17 formed them.

18 So did we get written advice that
19 said that they qualified? I don't know.

20 But we asked them to form entities
21 that qualified, and they did.

22 Q Did Kaye Scholer provide legal
23 advice regarding whether the pension plans
24 were the beneficial owners of the securities
25 at issue in the Danish trading?

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1 A Again, I don't have specific
2 concrete building blocks of what advice they
3 gave us. We gave them everything we did. We
4 gave them all the information about
5 everything as we went along.

6 And if they had seen any red flags,
7 which occasionally on some issue or another
8 they did, we would discuss it, figure out how
9 to resolve it, or if we saw a red flag, they
10 would help us resolve it.

11 So I don't recall.

12 Q Do you recall any red flags that
13 you or the group brought to Kaye Scholer's
14 attention?

15 A I don't know who originated some of
16 the issues about the Commodity Trading
17 Securities Law aspects.

18 I don't know who raised those
19 issues.

20 Q Do you recall any other red flags
21 that you or the Argre group brought to
22 Kaye Scholer's attention?

23 A I can't recall.

24 Q Do you recall any red flags that
25 Kaye Scholer raised after getting the